

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTONIO AVILA VERDUZCO and
FRANCISCO PADILLA,

Defendants.

NO. CR-05-2087-3-LRS
NO. CR-05-2087-5-LRS

**ORDER DISMISSING INDICTMENTS
WITHOUT PREJUDICE**

BEFORE THE COURT on March 24, 2006 is the Government's Motion to Expedite, Ct. Rec. 330, filed on March 23, 2006 in No. CR-05-2087-LRS-3, and Ct. Rec. 330, filed in CR-05-2087-LRS-5; the Government's Motion to Continue, Ct. Rec. 328, filed on March 23, 2006 in CR-05-2087-LRS-3, and Ct. Rec. 328, filed in CR-05-2087-LRS-5; the Government's Motion for Material Witness Warrant, Ct. Rec. 333, filed on March 23, 2006 in CR-05-2087-LRS-3, and Ct. Rec. 333, filed in CR-05-2087-LRS-5.

Aaron Dalan appeared on behalf of Defendant Padilla, who was also present at the hearing; and George Trejo appeared by telephone on behalf of Defendant Verduzco who was present in the custody of the United States Marshal. The Government, represented by Shawn Anderson, argued that a material witness, co-defendant Arenas, is not available for trial as his whereabouts are currently unknown. The Government requested a continuance

1 of approximately one month. Defendant Verduzco opposed the Government's
2 motion to continue, and requested that the indictments be dismissed with
3 prejudice as it is not likely this witness will be located in the near
4 future, if at all. Defendant Padilla joined in the request to have the
5 indictment dismissed with prejudice.

6 The Court has considered the written materials and arguments of
7 counsel and enters this order for the reasons discussed at the hearing.
8 Accordingly,

9 **IT IS HEREBY ORDERED:**

10 1. The Government's Motions to Expedite, **Ct. Rec. 330**, filed on
11 March 23, 2006 in No. CR-05-2087-LRS-3, and **Ct. Rec. 330**, filed in CR-05-
12 2087-LRS-5 are **GRANTED**.

13 2. The Government's Motions to Continue, **Ct. Rec. 328**, filed on
14 March 23, 2006 in CR-05-2087-LRS-3, and **Ct. Rec. 328**, filed in CR-05-
15 2087-LRS-5 are **DENIED**.

16 3. The Government's Motions for Material Witness Warrant, Ct. Rec.
17 333, filed on March 23, 2006 in CR-05-2087-LRS-3, and Ct. Rec. 333, filed
18 in CR-05-2087-LRS-5, are **DENIED AS MOOT**, based on the Government's
19 representation in open court that it withdraws the motions.

20 4. The indictments filed in CR-05-2087-LRS-3 against Defendant
21 Verduzco and Defendant Padilla in CR-05-2087-LRS-5 are hereby **DISMISSED**
22 **WITHOUT PREJUDICE**.

23 5. The trial date of March 27, 2006 is **STRICKEN**.

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1 **IT IS SO ORDERED.** The District Court Executive is directed to enter
2 this order and to provide copies to all counsel, the U.S. Probation
3 Office, the U.S. Marshal, and the Jury Administrator.

4 **DATED** this 24th day of March, 2006.

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6 ***s/Lonny R. Suko***

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 LONNY R. SUKO
 United States District Judge